

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CARL WILLIAMS, HASSAN ALEEM AND
DOROTHEA HARIS

Creditor/Petitioners

v

In re:

City OF DETROIT, MICHIGAN
AND EMERGENCY MANAGER

KEVYN D. ORR

Debtors/Respondent

Chapter 9

Case No. 13-53846

Magistrate Judge:

Steven W. Rhodes

FILED (I)
2014 NOV 24 P 4:00
U.S. BANKRUPTCY COURT
E.D. MICHIGAN-DETROIT

**PETITIONER'S MOTION TO STAY AND MEMORANDUM OF LAW ON
THE CONFIRMATION OF THE PLAN AND OPINION OF MAGISTRATE
JUDGE STEVEN W RHODES**

Notice is hereby given that Carl Williams and Hassan Aleem, petitioners/creditors above name have given notice that they are appealing the Bankruptcy Case No. 13-53846 and judge Magistrate judge Steven W. Rhodes Opinion on the record dated November 7, 2014 and not issued and made available for the public until November 12, 2014 to the Eighth Amended plan of adjustment and confirmation to the plan to the United States Court of Appeals for the Six Circuit,

STANDARD FOR A STAY PENDING APPEAL

The Federal Rule of Civil Procedure Rule 62(d) provides that “[w]hile an appeal is pending from an interlocutory order or final judgment that grants, dissolves, or denies an injunction, the court may suspend, modify, restore, or grant an injunction. injunction.” The purpose of a “STAY” is to preserve the status quo pending appellate determination. *McClendon v. City of Al-buquerque*, 79 F.3d 1014, 1020 (10th Cir. 1996).

When considering a stay pending appeal, a court must consider the following factor (1) the likelihood of success on; (2) the treat of irreparable Harm absent a stay; (3) the absence of harm to opposing parties if the stay is granted; and (4) any risk of harm to the public interest. *Baker v. Adams County/Ohio Valley School Bd.*, 310 F.3d 927, 928 (6th Cir 2002). A stay pending appeal does not “require the trial court to change its mind or conclude that its determination on the merit was erroneous” before holding that a stay pending appeal is warranted. *St Agnes Hospital v. Riddick*, 751 F. Supp 75, 76 (D. Md. 1990)(citations omitted).

In re City of Detroit, Michigan and Emergency Manager, Kevyn Orr the permanent injunction issued by stay on the Confirmation Plan and Magistrate Judge Steven W Rhode opinion case number 13-53846. In *Herbert v. Kitchen*. 2:13-cv-00217 (C.D. Utah Dec 20, 2013) (Doc No.48-2), the permanent injunction issued by the district court en-

joining Utah from enforcing its ban on same sex marriage was stayed by the United States Supreme Court without and dissent after the request was referred to the full Court by Justice Sotomajor. *Herbert v. Kitchen*, No. 13A687, 571 U.S.____ 2014 WL 30367 (Jan. 6 2014) . Consistent with the Supreme Court's issuance of a stay, the district courts in *De Leon v. Perry*, No SA-13-CA-00982-OLG (W.D. Tex. Feb, 26 2014) (Doc. No 56-1); and *Bishop v holder*, No 04-cv-848-TCK-TLW (N.D. Okla. Jan, 14, 2014 In these cases to grant injunctive relief; it should rely on them again for purpose of deciding this motion to stay on all the proceeding.

I. LIKELIHOOD OF SUCCESS ON APPEAL

Movants seeking a stay pending notice of appeal to the Plan of Confirmation “ need not always establish a high probability of success on the merits” but instead must show , at a minimum, the existence of serious question going to the merits.” *Grutter v Bollinger*, 247 F.3d 631-633 (6th Cir. 2001) CITING *Michigan Coalition of Radioactive Material Users, Inc v. Griepentrog*, 945 F.2d 150, 153-154 (6th Cir. 1991). The issuance of stay pending appeal in the similar cases cited above supports the conclusion that there is at least a serious question of jurisdiction and fraud going to the merits of city process.

II LACK OF IRREPARABLE HARM TO DEBTOR/RESPONDENT

Respondent will not be irreparable harmed by a stay pending appeal.

III PUBLIC INTEREST AND BALANCE OF HARM TO THE STATE

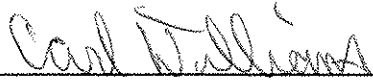
The purpose of a preliminary injunction “is merely to preserve the relative positions of the parties until a trial on the merits can be held.”

Southern Milk Sales, Inc v. Martin, 924 F.2d 98 (6th Cir. 1991) (citing University of Texas v. Camenisch, 451 U.S. 390 (1981)). But the Court’s preliminary injunction changes the relative position of the parties and alters the status quo. A stay is necessary to restore the balance pending appeal, particularly where the Court’s order is one that frustrates the will of the people of Detroit reflected in the State’s democratically established public policy.

In this the case the judge granted Confirmation plan cite unseen without the information available until after the fact and the information did not come available until November 21, 2014 this is fraud because the information was not present, therefore the stay should be granted in the interest of justice.

I/We hereby certify that the statements made herein are true and correct to the best of my knowledge and belief, under penalty of perjury and contempt of Court under the laws of the United States of America.

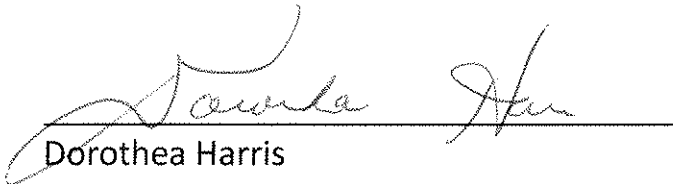
Respectfully submitted



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FROM UNITED STATES BANKRUPTCY COURT TO THE UNITED STATE SIX
CIRCUIT COURT APPEALS FOR EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISON

CARL WILLIAMS AND HASSAN ALEEM Dkt No, 4022, Barbara
Ann Magee Dkt No, 4111Errol Griffin No. Dkt 4113 et al
Creditors/Appellants,

v

In re:
CITY OF DETROIT, MICHIGAN
AND EMERGENCY MANAGER
KEVYN D. ORR

Debtor/Appellee

STATE OF MICHIGAN)

) SS

COUNTY OF WAYNE)

Chapter 9

Case No. 13-53846
Judge Steven W Rhodes

Case No. 14-cv-10434
Hon. Bernard A. Friedman
Magistrate Paul J. Komives

FILED (1)
2014 NOV 24 P 4:00
U.S. BANKRUPTCY COURT
E.D. MICHIGAN-DETROIT

PROOF OF SERVICE

Carl Williams, being first duly sworn, deposes and Say:

that on November 24 2014. I sent a copy of Petitioner's motion to stay and
memorandum of law on the confirmation of the plan and opinion on magistrate
judge Steven w Rhode upon the concern parties by certified mail, at the following
address:

City of Detroit
Corporation Council
First National Building
600 Woodward Ave
Detroit, Michigan 4822 6

Emergency Manager: Kevyn Orr
Coleman A. Young Municipal Center
2 Woodward 11th Floor
Detroit, Michigan 48226

I/We hereby certify that the statements made herein are true and correct to the best of my knowledge and belief, under penalty of perjury and contempt of Court under the laws of the United States of America.

Sign Carl Williams

Dated November, 24 2014

FROM UNITED STATES BANKRUPTCY COURT